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May 24, 2024

***Filed and Served via ECF & E-mail to Chambers***

The Honorable Kate M. Menendez  
United State District Court  
Courtroom 14W  
300 South Fourth Street  
Minneapolis, MN 55415

**Re: Defendants' Request for Leave to Supplement Declaration & Proposed Schedule to Address Parties' Requests**  
*Minnesota Chapter of Associated Builders and Contractors, Inc. et al v. Ellison et al.*, Case No. 0:24-cv-00536 (D. Minn.) (KMM/ECW)

Dear Judge Menendez:

On May 22, 2024, Plaintiffs' counsel notified the undersigned of the Act's amendment, and expressed their intent to request leave to file a second motion to amend the complaint in this matter. On May 23, 2024, Plaintiffs shared a draft second amended complaint with Defendants' attorneys. As with Plaintiffs' first motion to amend, Defendants believe that Plaintiffs' second motion to amend should be denied as futile. Accordingly, Defendants declined Plaintiffs' request to stipulate their amendment of the complaint.

Defendants do, however, believe that the Court would benefit from additional information about events arising after the close of briefing on their motion to dismiss and the hearing on the parties motions to permit a comprehensive adjudication of the pending dispute. Accordingly, Defendants will be requesting leave to file a supplemental declaration(s) in support of their motion to dismiss and in opposition to Plaintiffs' motions to amend. Defendants also met with Plaintiffs' counsel to discuss the proposed supplemental declaration, and Plaintiffs' declined to stipulate to the supplementation. While the parties disagree about each other's proposed submissions, they do agree that additional submissions from the parties would be helpful to the Court's resolution of the pending motions.

To ensure an orderly process without unnecessary delay, Defendants propose that any decision on the pending motions be stayed until the parties submit their respective requests along pursuant to the following schedule:

- **Defendants' Request Leave to File A Supplemental Declaration:**

1. By **June 5, 2024**, Defendants will file a request for leave to file a supplemental declaration in support of their motion to dismiss and in opposition to Plaintiffs' motions to amend. The request shall not exceed 5 pages.
2. By **June 7, 2024**, Plaintiffs will file a short response (not to exceed 5 pages) stating their opposition (if any) to Defendants' request.
3. By **June 10, 2024**, Defendants will file a short reply (not to exceed 3 pages) responding to Plaintiffs' arguments.

- **Plaintiffs' Request for Leave to File a Second Motion to Amend:**

1. By **June 5, 2024**, Plaintiffs will file their request for leave to file a second motion to amend the complaint. The request will not exceed 5 pages.
2. By **June 7, 2024**, Defendants will file a response not to exceed 5 pages stating their opposition to Plaintiffs' request.
3. By **June 10, 2024**, Plaintiffs will file a short reply not to exceed 3 pages responding to the Defendants' arguments.

Defendants shared this proposed briefing schedule with Plaintiffs in an effort to reach agreement, but the parties were unable to do so.

Defendants do not believe an additional hearing would be necessary to address these requests of the parties but would of course be happy to appear in-person, videoconference, or conference call to discuss these requests.

Sincerely,

/s/ Nick Pladson

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